

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Twelfth Congress

October 13, 2011

The Honorable Patty Murray and the Honorable Jeb Hensarling
Co-Chairs
Joint Select Committee on Deficit Reduction
Washington, D.C. 20515

Dear Chairwoman Murray and Chairman Hensarling:

As you know, leading economists recognize that the most effective ways to reduce our Nation's deficit are to create much-needed jobs for Americans and to cut unnecessary expenditures. Unfortunately, the Republican Majority of the House Judiciary Committee has failed to undertake any action on the President's jobs plan as requested in my letter of September 9, 2011. I am also very concerned that critical law enforcement programs that promote jobs, such as the Community Oriented Policing Services and the Second Chance Act, may be at risk of having their funding substantially reduced. It is essential that any cost-cutting measures take into consideration whether they will have a disproportionate impact on public safety and law enforcement.

Accordingly, I have identified the following legislative measures that will achieve either one or both of these goals in a fair and balanced way.

Reducing Unnecessary Foreclosures Is Key To the Nation's Economic Recovery

Numerous economists and others recognize that the ongoing foreclosure crisis continues to weigh down the Nation's economic recovery. Leading economists, such as Professor Eric Posner, former FDIC Chair Sheila Bair, the Brookings Institute, and Pulitzer Prize winner and New York Times columnist Thomas Friedman cite the critical need to modify home mortgages. Foreclosures cost everyone money, especially American taxpayers with respect to Fannie Mae and Freddie Mac sponsored mortgages. As reported by Fannie Mae itself, the government now receives *only 55 percent* of the principal amount owed on homes it sells through foreclosure.¹

Legislative proposals:

H.R. 1587, the "Home Foreclosure Reduction Act": As Mr. Friedman observes, the United States needs "to deleverage the economy as fast as possible, while, at the same time, getting back to investing as much as possible in our real pillars of

¹Fannie Mae, Second Quarter 2011 Credit Supplement, at 16 (Aug. 5, 2011), available at <http://edgar.sec.gov/Archives/edgar/data/310522/000095012311073256/w83930exv99w2.htm>.

growth so our recovery is built on sustainable businesses and real jobs and not just on another round of credit injections.”² To that end, economists and others suggest that the government facilitate the writing down of mortgages in exchange for a share of any future home-price appreciation, which is what my legislation would accomplish. H.R. 1587 would permit a bankruptcy judge to adjust the amount of principal owed on a mortgage to fair market value, with provision for appreciation in value to be shared with the mortgagee on a sliding basis.

H.R. 2713, the “Limiting Investor and Homeowner Loss in Foreclosure Act of 2011”: would facilitate mediation between a homeowner and mortgagee before foreclosure could proceed during the pendency of a bankruptcy case. This legislation would facilitate loss mitigation mediation in lieu of unnecessary home foreclosures.

Non-legislative proposal:

Immediately authorize Fannie Mae and Freddie Mac to restructure certain undersecured mortgages under Chapter 13 bankruptcy, whereby the homeowner, under the jurisdiction of a bankruptcy judge and trustee, would be able to pay down the loan principal and reduce negative equity. This would have the immediate effect of turning non-performing mortgages into performing mortgages thereby avoiding foreclosure and ensuring that American taxpayers will receive a greater return on these mortgages. The proposal accomplishes this result by temporarily reducing the interest rate for undersecured mortgages to zero for five years, which would allow the homeowner’s entire monthly loan payment to be used to pay principal. During the five-year period, the borrower’s monthly minimum housing payment would be calculated similar to a HAMP modification payment, at 31 percent. At the end of the initial five-year period, the remaining principal balance is amortized over 25 years at the Freddie Mac survey rate. The bankruptcy judge and trustee would review the borrower’s budget to confirm the homeowner’s eligibility and the feasibility of the payments as well as oversee the implementation of the repayment plan. In exchange for this consensual mortgage modification, the homeowner would agree to a general settlement of *all* claims it has against the lender and servicer, thereby avoiding future title and loan litigation. This solution would provide a screening mechanism that would identify preventable foreclosures, thereby saving taxpayer dollars. Importantly, the process would not cost any taxpayer dollars.

Securing our Communities and Creating Jobs

H.R. 1896, the “COPS Improvements Act of 2011”: This measure would establish legislative authority for the Community Oriented Policing Services (COPS) Office at the Justice Department to administer grants for the hiring of police officers and deputy sheriffs, reestablish the Troops to COPS program, fight methamphetamine trafficking, invest in innovative technology, and other purposes

²Op. Ed., Thomas Friedman, Win Together or Lose Together, N.Y. Times, Aug. 7, 2011, at SR11, available at <http://www.nytimes.com/2011/08/07/opinion/sunday/Friedman-win-together-or-lose-together.html>.

which will help reduce crime. Historically, the COPS Program has enhanced public safety and created jobs. Since its inception during the Clinton Administration, the COPS Program has funded the hiring of more than 122,000 state and local police officers and sheriff's deputies in communities across America. We must reaffirm our commitment to a program that hires more officers who will protect our communities and that creates jobs.

Making the Government and Regulations More Effective and Efficient

H.R. 2480, the "Administrative Conference of the United States Reauthorization Act of 2011": This measure would reauthorize the Administrative Conference of the United States (ACUS), which is a nonpartisan think tank devoted to making federal agencies and the rulemaking process more effective and efficient. Implementing ACUS's recommendations can lead to substantial savings of taxpayer dollars.³ For example, the Social Security Administration estimated that implementing ACUS's recommendation to revamp the agency's appeals process would save the agency about \$85 million. Rather than the shortsighted, industry-friendly anti-regulatory measures that the House Majority is promoting, the Conference can provide balanced and deliberative recommendations to improve the federal rulemaking process. H.R. 2480 passed the House on August 1, 2011 by a vote of 382-23.

Cutting Unnecessary Expenditures

H.R. 2343, the "Literacy, Education, and Rehabilitation Act", and H.R. 2344, the "Prisoner Incentive Act of 2011": These measures would save millions of taxpayer dollars by reducing the prison bed need without any adverse impact on public safety. With respect to H.R. 2344, more than \$112 million would be saved in the first year following enactment of this measure, according to informal estimates from the U.S. Bureau of Prisons.

Reducing the Deficit

H.R. 1842, the "Development, Relief, and Education for Alien Minors Act of 2011": This measure would provide a path to legalization for young undocumented immigrants who entered the country as children (age 15 or below), who have been in the U.S. for at least 5 years, who are persons of good moral character, and who complete at least 2 years of higher education or military service. According to CBO and the Joint Committee on Taxation, similar legislation that passed the House in the 111th Congress would have reduced deficits by about \$2.2 billion over the 2011-2020 period.

³Toni Fine, *A Legislative Analysis of the Demise of the Administrative Conference of the United States*, 30 ARIZONA ST. L. J. 19, at 50 (1998) ("Nearly everyone who commented on ACUS noted its efficiency as an agency that pays for itself many times over through cost saving legislation, publications, and other innovations."); *ABA Section of Administrative Law & Regulatory Practice Program: The Administrative Conference of the U.S. - Where Do We Go From Here?*, 8 THOMAS M. COOLEY L. REV. 147, 160 (1991) (including comments by Philip D. Brady, Assistant to the President and Deputy to the Chief of Staff, that "given the reality of the Administrative Conference's minuscule budget of only some \$2 million, it's hard to imagine a better value in the federal government").

Spurring Job Creation by Incentivizing Immigrant Entrepreneurship

H.R. 2161, the "Immigration Driving Entrepreneurship in America Act of 2011": This bill would foster innovation, economic growth, and job creation with high-skill immigration provisions that incentivize such activity. The bill would: (1) create jobs by giving green cards to immigrant entrepreneurs who start businesses and create jobs for American workers; (2) foster innovation and competitiveness by providing green cards to immigrants with advanced degrees in science, technology, engineering, and mathematics (STEM) from the best U.S. universities; (3) encourage home-grown innovation by using fees from new visa categories to create scholarships for U.S. students and improve STEM education; (4) protect Americans by reforming the H-1B and L-visa programs to prevent displacement of U.S. workers, undercutting of U.S. wages and exploitation of foreign workers; and (5) attract capital investment and spur job creation by reforming and streamlining the EB-5 program for foreign investors who invest in U.S. commercial enterprises that will create new jobs for Americans.

Growing American Farming

H.R. 3017, the "Agricultural Labor Market Reform Act of 2011": This legislation would help the economy by filling current labor shortages and preventing the additional closing and off-shoring of American farms by supporting agricultural labor and services. Due to restrictive immigration laws in several states, including Georgia and Alabama, American farmers are experiencing severe shortages in agricultural labor, leading to significant losses in revenue and GDP as well as the elimination of upstream and downstream jobs that are dependent on manual, on-the-farm labor. By filling this hole in our labor force, the bill will have a significant positive impact on our economy and revenues.

I look forward to discussing these matters with you at your earliest convenience.

Sincerely,


John Conyers, Jr.
Ranking Member

cc: The Hon. Lamar Smith, Chairman, House Committee on the Judiciary